

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	CRIMINAL NO. 4:10CR63
v.	§	
	§	
TERRY MOORE	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 24, 2010 to determine whether the Defendant violated his supervised release. The Defendant was represented by Frank Henderson. The Government was represented by Tracey Batson.

On April 26, 2004, the Defendant was sentenced by the Honorable David M. Lawson, United States District Judge, to a sentence of 70 months imprisonment followed by a 4-year term of supervised release for the offense of conspiracy to possess with intent to distribute at least 500 grams of cocaine. Defendant began his term of supervision on August 14, 2008. On March 29, 2010, the case was transferred to this District and re-assigned to the Honorable Richard A. Schell.

On May 17, 2010, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 2). The petition asserts that Defendant violated the following

conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not illegally possess a controlled substance; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer narcotic or other controlled substance, or any paraphernalia related to such substances; (4) Defendant shall refrain from any unlawful use of a controlled substance; (5) Defendant shall participate in a program approved by the Probation Department for substance abuse, which may include testing to determine if Defendant has reverted to the use of drugs or alcohol; (6) Defendant shall not use or possess alcohol in any consumable form, nor shall Defendant be in the social company of any person whom Defendant knows to be in possession of alcohol or illegal drugs or visible affected by them, and Defendant shall not be found at any place that serves alcohol for consumption on the premises, with the exception of restaurants; (7) Defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered; (8) Defendant shall not associate with any persons engage in criminal activity and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.

The petition alleges that Defendant committed the following violations: (1) on January 16, 2010, Defendant was arrested by Department of Public Safety Highway Patrol, McKinney, Texas for the offense of Possession of Marijuana - Less than 2 ounces, Defendant was convicted on March 21, 2010 and sentence to 30 days jail in Collin County Texas, and his jail term is served on weekends; (2) on April 28, 2010, Defendant was arrested by Allen Police Department, for the offense of Possession of Marijuana - Less than 2 ounces, Defendant posted a \$750 bond and was

released from custody on May 4, 2010, and, at the time of the filing of the petition, the charges remained pending; (3) Defendant submitted a urine specimen that tested positive for marijuana on January 19, 2010; (4) Defendant failed to report for drug testing at Bob Alterman's Office, Plano, Texas on May 3, 2010; and (5) on April 28, 2010, during the execution of the residential search warrant drugs and drug paraphernalia were seized from a master bedroom shared by Defendant and his girlfriend but that Defendant denies the seized items belong to him.

At the hearing, Defendant entered a plea of true to the alleged violation regarding his January 16, 2010 arrest. The Court finds that, based on this violation, Defendant has violated the terms of his supervised release. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and based on the agreement of the parties, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of 11 months, to run consecutively to any state sentence being served, and no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prison facilities located in Seagoville, Texas, if appropriate.

SIGNED this 25th day of June, 2010.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE